

APPENDIX E

CLASSIFICATION OF CONTRACTS AS A-E SERVICES

INTRODUCTION

This appendix provides guidance and examples to assist the contracting officer when determining whether a particular contract should be procured as A-E services in accordance with the procedures FAR Subpart 36.6.

A contract must be procured in accordance with FAR 36.6 when:

1. The SOW includes work that is A-E services, and
2. The A-E services are a substantial or dominant portion of the contract.

Each of these two conditions are discussed in turn below.

CATEGORIES OF A-E SERVICES

FAR 36.601-4(a) describes four categories of A-E services, each of which is discussed below.

"(1) Professional services of an architectural or engineering nature, as defined by applicable State law, which the State law requires to be performed or approved by a registered architect or engineer."

Discussion: The test for this category is whether the work is typically of the type that state laws require to be performed or approved by a registered architect or engineer (even though the work is likely on Federal property and state laws generally do not apply to the project). All states license architects and engineers for the protection of public health, safety and welfare. State laws vary but generally the practices of engineering and architecture include the evaluation, planning, design and construction supervision of public and private buildings and structures and the equipment and utilities thereof, site development, and transportation systems.

"(2) Professional services of an architectural or engineering nature associated with design or construction of real property."

Discussion: The test for this category is whether

the work is of the type typically performed by architects or engineers in association with the design or construction of real property, even if there is no explicit registration requirement in the SOW. Real property is land and any structures on it. Design also includes investigations and planning when related to a particular construction project. Construction is defined in FAR 36.102 as construction, alteration or repair of buildings, structures, or other real property. Many specific examples are cited. "Construction does not include ... vessels, aircraft, or other kinds of personal property." Personal property are items that are movable or not attached to the land.

"(3) Other professional services of an architectural or engineering nature or incidental services thereto (including studies, investigations, surveying and mapping, tests, evaluations, consultations, comprehensive planning, program management, conceptual designs, plans and specifications, value engineering, construction phase services, soils engineering, drawing reviews, preparation of operating and maintenance manuals and other related services) that logically or justifiably require performance by registered architects or engineers or their employees."

Discussion: The test for this category is whether the work is of the type that should logically or justifiably be accomplished by, or under the supervision, of architects or engineers. However, the work must be of an architectural or engineering nature. For example, not all studies, investigations, tests, evaluations, consultations, planning, and construction phase services are architectural or engineering in nature. Also, the list of typical services in parentheses is not all inclusive; reasonable extrapolations from this list can be made.

"(4) Professional surveying and mapping services of an architectural or engineering nature. Surveying is considered to be an architectural and engineering service and shall be procured pursuant to Section 36.601 from registered surveyors or architects and engineers. Mapping associated with the research, planning, development, design, construction, or alteration of real property is considered to be an architectural and engineering

service and is to be procured pursuant to Section 36.601 ..."

Discussion: The general FAR test for this category is whether the surveying and mapping is related to architectural and engineering activities. But also, by separate statute (33 U.S.C. 569b), all surveying and mapping procured by USACE must use Brooks Act procedures. EFARS 36.601-4(a)(4)(A) provides examples of surveying and mapping services which should be procured as A-E services. In USACE, the performance of surveying and mapping services will not be limited to A-E firms, but may include surveying and mapping professionals such as licensed surveyors, geodesists, and cartographers.

MIXED WORK

FAR 36.601-3(c) provides the following guidance when the SOW includes both A-E services and other services:

"When the contract statement of work includes both architect-engineer services and other services, the contracting officer shall follow the procedures in this subpart if the statement of work, substantially or to a dominant extent, specifies performance or approval by a registered or licensed architect or engineer."

Discussion: When a contract includes a mixture of A-E services and other services, the contract shall be procured in accordance with FAR 36.6 if the A-E services are a substantial or dominant part of the work. Substantial means a considerable percentage of the work but not necessarily a majority of the hours or cost. Dominant means the primary purpose of the work, although not necessarily a majority of the hours or cost, or the largest component of the work.

EXAMPLES

1. A contract for the complete architectural and engineering design of a building, structure or utility system is A-E services. However, a contract principally for drafting services or the development or revision of record drawings is not A-E services, even if the SOW requires approval by a registered architect or engineer as a quality control measure.

2. A contract for the architectural design of the renovation of a building (such as relocation of load

bearing partitions to accommodate a new occupancy, alteration of hallways and corridors to comply with life safety codes, and various improvements to allow handicapped access), which may also include interior design services (such as space planning and modular furniture systems design), is A-E services. However, a contract principally for interior design services, where load-bearing structural elements and mechanical and electrical systems are not altered, is not A-E services, notwithstanding the fact that a few states require registration of interior designers.

3. A contract for the design of the foundations for a high-rise building is A-E services, even if the necessary soils borings and tests are the majority of the effort measured in hours or dollars. However, a contract principally for borings and laboratory tests, where engineering analysis and judgment are not required, is not A-E services, even if the SOW requires monitoring of the borings and tests by a registered engineer as a quality control measure.

4. A contract for landscape architecture, which is concerned with the functional as well as aesthetic aspects of site development and is licensed by most states, is A-E services. However, a contract which principally requires application of the natural sciences (such as botany, marine science, or forestry) is not A-E services.

5. A contract for hydraulic engineering to study the effects on shoreline erosion and marine structures due to increased flow in a river is A-E services. However, a contract principally to study the effects on marine plants and fish due to increased flow in a river is not A-E services, even if a minor effort is required by a hydraulic engineer.

6. A contract for an environmental study or assessment with significant engineering considerations (such as alternative highway alignments, air pollution control, sanitary sewage waste collection and treatment, storm drainage management, domestic water supply, energy consumption, or remedial technology evaluation) is A-E services. However, a contract for environmental studies or assessment where the engineering considerations are not significant or dominant is not A-E services. See Appendix C for more detailed guidance on which types of environmental services should typically be procured as A-E services.

7. A contract for aerial photogrammetry is A-E services in USACE. However, a contract for aerial photography only which does not result in a surveying and mapping product is not A-E services. See EM 1110-1-1000 for additional guidance.

8. A contract for construction phase services, such as shop drawing review, evaluation of construction methods, and interpretation of plans and specifications, is A-E services. However, a contract for construction phase services that is principally for materials testing, quantity verification or materials scheduling is not A-E services.

9. A contract for the architectural renovation of the exterior of a historic building (including cleaning and repair of masonry, repair and/or replacement of doors and windows, and handicapped accessibility improvements), which may require research by a architectural historian, is A-E services. However, a contract principally for historic research, archaeology, or cultural resources studies is not A-E services, even though a minor effort may be required by an architect.

10. A contract to study whether to renovate an existing building or construct a new building to

accommodate a new mission is an A-E service. However, a contract to do a cost/benefit study of which installation should receive this new mission is not A-E services, even though facilities analysis would be a part of such a study.

11. A contract to design a building, including an artist's rendering and a three dimensional model, is A-E services. However, a contract only for a rendering and/or model is not A-E services.

12. An engineering geology study to determine the foundation requirements for a new dam is A-E services. However, a geology investigation that is not directly related to a construction project, such as mapping of seismic faults, is not A-E services, notwithstanding the fact that many states license geologists.

13. Comprehensive planning that is related to future construction requirements on a military installation is A-E services. However, comprehensive planning that is not related to construction, such as information systems improvements or natural resources management, is not A-E services.